

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

RAMON GUERRERO d/b/a EL
GRULLENSE RESTAURANT II and RASIL
G., INC.,

Defendants.

2:04-cv-1752-GEB-PAN (JFM)

ORDER

The final pretrial conference scheduled for May 22, 2006, is rescheduled to commence at 2:30 p.m. on June 26, 2006. The parties shall file a joint document no later than 4:30 p.m. on

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1 June 19, 2006, in which they specify Plaintiff's claim and any duly
2 preserved affirmative defense.¹

3 IT IS SO ORDERED.

4 Dated: May 18, 2006

5 /s/ Garland E. Burrell, Jr.
6 GARLAND E. BURRELL, JR.
7 United States District Judge
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21 ¹ The Status (Pretrial Scheduling) Order filed January 10,
22 2005, provided the parties an example of how this should have been
23 done as follows: "Each pled claim or affirmative defense must be
24 accompanied by the elemental facts supporting it and the relief
25 sought, if applicable. For example: Plaintiff claims that
26 Defendant violated her Fourth Amendment right to be free from
27 excessive force by applying the handcuffs too tightly and seeks
28 general damages." (Order at 5-6.)

Further, Defendants should be mindful of what really
constitutes an affirmative defense. "A defense which demonstrates
that plaintiff has not met [his] burden of proof is not an
affirmative defense. . . . [A] defense which points out a defect
in the plaintiff's prima facie case is not an affirmative defense."
Zivkovic v. Southern Cal. Edison Co., 302 F.3d 1080, 1088 (9th Cir.
2002).